

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JAMES H. HODSON, III,**  
**Petitioner**

**v.**

**MARILYN BROOKS, et. al.,**  
**Respondents.**

**C.A. No. 05-92 Erie  
District Judge McLaughlin  
Magistrate Judge Baxter**

## ORDER

Petitioner has filed an application for appointment of counsel [Document # 35]; however, this Court has already issued an Order appointing Attorney Thomas W. Patton of the Federal Public Defender's Office as Plaintiff's counsel in this matter. [Document # 33]. As a result, Petitioner's application for appointment of counsel is moot.

AND NOW, this 10<sup>th</sup> day of October, 2006;

IT IS HEREBY ORDERED that Petitioner's application for appointment of counsel [Document # 35] is dismissed as moot.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief U.S. Magistrate Judge